

**DEPARTMENT OF ENERGY
FY 2000 CONGRESSIONAL REVIEW BUDGET REQUEST**

PROPOSED APPROPRIATION LANGUAGE

Economic Regulation

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, [\$1,801,000] \$2,000,000, to remain available until expended.

**DEPARTMENT OF ENERGY
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ECONOMIC REGULATION**

OFFICE OF HEARINGS AND APPEALS

PROGRAM MISSION

The Office of Hearings and Appeals (OHA) is responsible for all of the Department's adjudicatory processes. OHA was created to adjudicate cases arising under the Emergency Petroleum Allocation Act of 1973 (EPAA), and continues to conduct refund proceedings returning petroleum overcharge funds collected by the Department to parties who were directly injured by those overcharges, and to the states and federal government for indirect restitution. OHA continues to receive refund applications, although at a lower rate than in past years. OHA also continues to work on isolated matters connected with EPAA-related enforcement proceedings that are before the federal courts or that have been remanded to OHA.

Goal: The Goal of OHA is to continue to issue high quality, articulate decisions that fairly and equitably resolve the matters that are brought before it. In doing so OHA considers the Congressionally-mandated objectives implicated in each case and the interests of its customers, stakeholders and other concerned parties, including the public, state and federal governments, and the individual litigants.

Performance Measures & Accomplishments: OHA has been highly successful in fulfilling its mission. The primary quantitative performance measures are:

- Record on Appeal: OHA has had and projects that it will continue to have a singularly successful record of having its decisions upheld upon judicial review.
- Number of Cases Resolved: OHA resolved 1,299 refund cases during FY 1998, and expects to resolve 1,200 in FY 1999, and 1,100 in FY 2000.
- Distribution of Refunds: OHA has returned nearly \$5 billion in petroleum overcharge funds to individual refund applicants, the states and the federal government. During FY 2000, OHA expects to direct payment of about \$100 million in overcharge funds. OHA intends to commence the final distribution in the crude oil refund proceeding in FY 2000.
- Public Availability of Information and Decisions: OHA makes all of its decisions available on the Internet to interested persons within one day of issuance. OHA provides public access through its home page to much of its refund application database.

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(dollars in thousands)

PROGRAM FUNDING PROFILE

OFFICE OF HEARINGS AND APPEALS

Activity	FY 1998 Enacted	FY 1999 Enacted	FY 2000 Base	FY 2000 Request	Program Change Request v. Base	
					Dollar	Percent
Office of Hearings and Appeals						
Operating Expenses	\$ 2,725	\$ 1,801	\$ 1,801	\$ 2,000	\$ +199	+11%
TOTAL	\$ 2,725	\$ 1,801	\$ 1,801	\$ 2,000	\$ +199	+11%
Summary						
Operating Expenses	\$ 2,725	\$ 1,801	\$ 1,801	\$ 2,000	\$ +199	+11%
Total Program	\$ 2,725	\$ 1,801	\$ 1,801	\$ 2,000	\$ +199	+11%
Staffing — HQ FTEs	24	17	17	16		

Authorizations:

Pub. Law 95-91, DOE Organization Act; Pub. Law 99-509, Petroleum Overcharge Distribution and Restitution Act of 1986.

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SUMMARY OF CHANGES

OFFICE OF HEARINGS AND APPEALS

FY 1999 Appropriation	\$	1,801
— Non-Discretionary		0
FY 2000 Base	\$	1,801
<u>Office of Hearings and Appeals</u>		
— Increase due to inflation, promotions, and step increases	\$	+165
— FY 1999 appropriation was supplemented by use of FY 1998 unobligated balances (\$283). This is offset by decreased activity (\$249)		+34
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FY 2000 Budget Request	\$	2,000

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PROGRAM PERFORMANCE SUMMARY

I. Mission Supporting Goals and Objectives: Office of Hearings and Appeals

The Office of Hearings and Appeals (OHA) is an essential component of the Department's effort to equitably terminate the regulatory program implementing the Emergency Petroleum Allocation Act of 1973. OHA resolved the last compliance case under the regulatory program in FY 1996. However, the refund applications that OHA decides do not arise until after each individual compliance case is resolved. As a result, refunds of petroleum overcharges are the last portion of the original regulatory program that will be concluded. Through these refund proceedings OHA returns the moneys received in restitution for EPAA regulatory violations to those who were injured by the violations. Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), all funds remaining in a refund proceeding after all direct claims are satisfied are distributed to federal energy conservation programs as a means of providing indirect restitution to states and their citizens. These annual payments replace appropriated U.S. Treasury funding and have always been many times the size of OHA's budget in each year.

The largest ongoing refund proceeding is the crude oil proceeding, which distributes funds recovered by the Department arising from overcharges in the sale of crude oil. Because the regulatory program tended to equalize the cost of crude oil to refiners, overcharges on crude oil sales were passed through to the ultimate consumers of petroleum products. Twenty percent of crude oil overcharge funds are distributed to consumer claimants, including individuals, farmers, businesses, hospitals, school districts, cooperatives, public utilities, and governmental entities. Crude oil claimants receive a payment once their application is approved and supplemental payments as additional crude oil overcharge funds are collected by the Department. OHA divides the remaining 80 percent of crude oil overcharge funds equally between the states and the federal government for indirect restitution to injured consumers. OHA's goal has been to pay all valid claims and conclude the refund program as soon as circumstances permit.

Previously, OHA planned to substantially complete the refund program (other than for additional matters that may arise) by the end of FY 1998. However, Departmental-wide funding and staffing reductions have prevented it from doing so. OHA continues to receive refund applications and currently projects that it will require funding for this activity at least through FY 2001. In this regard, OHA expects the Office of General Counsel to file petitions during FY 1999 asking that OHA take jurisdiction over funds collected through approximately 30 enforcement proceedings. OHA expects these 30 refund proceedings to generate a significant number of refund claims. OHA also provides adjudications pertaining to other

Interior-funded programs, e.g., requests for exception from Energy Information Administration reporting requirements. OHA is seeking Congressional guidance on how these activities should be funded.

II. Funding Table: Office of Hearings and Appeals

Program Activity	FY 1998 Enacted	FY 1999 Enacted	FY 2000 Request	% Change
Case Resolution				
Compliance and Refund Cases	\$ 2,725	\$ 1,801	\$ 2,000	+11%
Subtotal, Case Resolution	\$ 2,725	\$ 1,801	\$ 2,000	+11%
Total, Office of Hearings and Appeals	\$ 2,725	\$ 1,801	\$ 2,000	+11%

III. Performance Summary

Program Activity	FY 1998	FY 1999	FY 2000
Case Resolution	OHA resolved 1,299 refund claims in FY 1998 and refunded \$28 million in direct restitution to these applicants. OHA's case closure rates for refund applications have declined substantially from prior levels, since most of the remaining cases are complex and are not susceptible to the "batch processing" that was used in the past to process refund claims.	OHA expects to resolve approximately 1,200 cases in FY 1999 and to refund about \$25 million in direct restitution to these applicants.	OHA expects to resolve approximately 1,100 cases in FY 2000 and to refund about \$20 million in direct restitution to these applicants.
Compliance & Refund Cases	<p>OHA concluded nearly all of the distribution started in FY 1995 of \$275 million in supplemental refunds to applicants who had previously been granted crude oil refunds. By year end, OHA had distributed over 98% of the supplemental refunds.</p> <p>Pursuant to PODRA, nearly \$21 million in overcharge funds that were not required for restitution to injured parties were declared excess and made available to state governments for use in four energy conservation programs. In addition, \$25 million in crude oil funds was disbursed to the states.</p>	<p>Pursuant to PODRA amendments, OHA will release \$64 million in overcharge funds to state governments for use in energy conservation programs.</p>	<p>OHA will commence final payments to successful crude oil applicants. This is conditioned upon conclusion of all enforcement proceedings, so that OHA will know the total amount of crude oil overcharge funds that are available for distribution to injured claimants.</p>

Program Activity	FY 1998	FY 1999	FY 2000
	<p>OHA continues to provide advice and litigation support to the Economic Regulatory Administration (now part of the Office of General Counsel) in cases where judicial review is sought of OHA compliance and refund determinations. OHA resolved the last compliance case in its inventory involving the regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973 in FY 1996. Unless additional cases are filed or remanded to OHA, this will have completed OHA's compliance work.</p>	<p>OHA is concluding a number of vigorously contested refund cases, some of which will be litigated. OHA will support that litigation effort.</p>	<p>OHA will continue to support and assist, as needed, in all litigation involving OHA compliance and refund decisions.</p> <p>In order to accomplish these goals, OHA requests funding of \$2.0 million for personnel compensation (\$1,520), travel (\$4), and other services (\$476). Other services include employee training (\$6), and the Working Capital Fund for base services: rent, telephone, supplies, postage, building operations, equipment maintenance, printing, and Automated Office Support System support and maintenance (\$430). OHA will also pay certain support items directly, including purchase of computer equipment and software, and contractual computer support (\$40).</p>